## UNITED STATES DISTRICT COURT

## DISTRICT OF SOUTH CAROLINA

PRO SLAB, INC. and BREMER CONSTRUCTION MANAGEMENT, INC., on behalf of themselves and all others similarly situated,	) ) ) )
Plaintiff,	) Case No. 2:17-cv-03185-DCN
v.	)
ARGOS USA CORP., ARGOS NORTH	)
AMERICAN CORP., ARGOS USA, LLC,	) MOTION TO DISMISS
ARGOS READY MIX, LLC, ARGOS READY,	) PLAINTIFFS' AMENDED
MIX (CAROLINAS) CORP., LAFARGE	) COMPLAINT
NORTH AMERICAN, INC., LAFARGE	)
BUILDING MATERIALS, INC., COASTAL	)
CONCRETE COMPANY, INC., COASTAL	)
CONCRETE SOUTHEAST II, LLC, THOMAS	)
CONCRETE, INC., THOMAS CONCRETE	)
OF GEORGIA, INC., THOMAS CONCRETE	)
OF SOUTH CAROLINA, INC., EVANS	)
CONCRETE HOLDINGS, INC., ELITE	)
CONCRETE HOLDINGS, LLC, ELITE	)
CONCRETE, LLC, ELITE CONCRETE	)
OF RICHMOND HILL, LLC, ELITE	)
CONCRETE OF SC, LLC,	)
D 0 1 4	)
Defendants.	)

## ELITE CONCRETE, LLC'S, ELITE CONCRETE HOLDINGS LLC'S, AND ELITE CONCRETE OF SC, LLC'S MOTION TO DISMISS

In addition to the Joint Motion to Dismiss Pursuant to Rule 12(b)(6) ("Joint Motion"), which Defendants Elite Concrete LLC, Elite Concrete Holdings, LLC, and Elite Concrete of SC, LLC (collectively, "Elite") join in its entirety, Elite separately moves to dismiss the Amended Complaint filed by Plaintiffs Pro Slab, Inc. and Bremer Construction Management, Inc.

("Plaintiffs") because Plaintiffs' claims are time barred by the statute of limitations. In addition, Plaintiffs' fraudulent concealment allegations are insufficient to toll the statute of limitations and should be stricken. For these reasons and those set forth in the Joint Motion, Memorandum of Law in support of the Joint Motion, and Elite's contemporaneously filed Memorandum of Law, Plaintiffs' Amended Complaint fails to state a claim upon which relief can be granted. Accordingly, the Amended Complaint should be dismissed in its entirety.

Respectfully submitted this 15th day of February, 2018.

Mathew M. McCoy Fed Bar #10644 Catherine M. Bolger Fed Bar #11167

/s/ Mathew M. McCoy

McCorkle & Johnson, LLP 319 Tattnall Street

Savannah, Georgia 31401 Phone: 912-232-6000

Email: mmm@mccorklejohnson.com cmb@mccorklejohnson.com

Robert M. Brennan (admitted pro hac vice) bbrennan@phrd.com Katrina L. Hodges (admitted pro hac vice) khodges@phrd.com Parker, Hudson, Rainer & Dobbs 303 Peachtree Street, NE #3600 Atlanta, Georgia 30308

Phone: 404-681-5969

Counsel for the Elite Defendants

## **CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a copy of the within and foregoing **ELITE** CONCRETE, LLC'S, ELITE CONCRETE HOLDINGS LLC'S, AND ELITE CONCRETE OF SC, LLC'S MOTION TO DISMISS with the Clerk of Court using the CM/ECF system, which will send automatic notification of such filing to all counsel of record.

This 15th day of February, 2018.

/s/ Mathew M. McCoy

Mathew M. McCoy Fed Bar #10644 Catherine M. Bolger Fed Bar #11167 McCorkle & Johnson, LLP 319 Tattnall Street Savannah, Georgia 31401

Phone: 912-232-6000

Email: mmm@mccorklejohnson.com cmb@mccorklejohnson.com

Robert M. Brennan (admitted pro hac vice) bbrennan@phrd.com Katrina L. Hodges (admitted pro hac vice) khodges@phrd.com Parker, Hudson, Rainer & Dobbs 303 Peachtree Street, NE #3600 Atlanta, Georgia 30308

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Counsel for the Elite Defendants